

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re the application of:**Heike Gielen-Haertwig *et al.*

**Serial No.:** 10/527,391

**Filed:** October 21, 2005

**For:** PYRIMIDINONE DERIVATIVES AS THERAPEUTIC  
AGENTS AGAINST ACUTE AND CHRONIC  
INFLAMMATORY, ISCHAEMIC AND  
REMODELLING PROCESSES

**Attorney Docket No.:** LeA36248 [82439(303989)]

**Confirmation No.:** 8624

**Group Art Unit:** 1624

**Examiner:** D. R. Rao

**Attention: Office of Petitions**

**Mail Stop Petitions**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**CERTIFICATION OF ELECTRONIC FILING UNDER 37 C.F.R. §1.8**

Date of Electronic Submission: July 30, 2009

I hereby certify that this correspondence is being transmitted via the U.S.P.T.O.'s Patent Electronic Business Center in accordance with 37 C.F.R. § 1.6(a)(4) on the date indicated above.

/Gabriel J. McCool/

Signature of Person Transmitting Paper

**PETITION UNDER 37 CFR 1.137(b) FOR REVIVAL OF AN  
APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY**

Dear Commissioner:

A Notice of Allowance was mailed on April 10, 2009 in the above application, setting a three-month date ending on July 10, 2009 for payment of the requisite Issue Fee and related Publication Fee, both of which Applicants unintentionally failed to timely pay.

Applicants wish to note that an Amendment After Allowance under 37 C.F.R. §1.312 was filed on July 9, 2009 using the EFS-Web to add new dependent claims 25 and 26, which was entered pursuant to the Supplemental Notice of Allowability mailed July 13, 2009. The Notice of Allowability indicates claims 1-15, 17, 19, and 21-26 as being allowed.

Applicants intended and, in fact, attempted to pay the Issue Fee and Publication Fee 1 day after filing the Amendment After Allowance, i.e., on the due date of July 10, 2009, using the EFS-Web. The enclosed EFS-Web form entitled "Electronic Patent Application Fee Transmittal" (Exhibit A) was generated on July 10, 2009 as a result of uploading the Issue Fee Transmittal to the EFS-Web and designating the Issue Fee and Publication Fee for payment. However, the filing process through the EFS-Web was apparently not completed. According to PAIR, the PTO did not receive the Issue Fee Transmittal which was attempted to be filed by Applicants on July 10, 2009. PAIR now indicates the application as being abandoned, with a Notice of Abandonment being mailed on July 28, 2009.

It is apparent that an unintentional error was made in submitting the Issue Fee Transmittal on July 10, 2009. We are unable to ascertain for certain, however, whether the error is attributable to the PTO or to Applicants. Respectfully, Applicants' wish to enlist the PTO's assistance in determining from its available records whether there is an indication that the filing error is attributable to the PTO. If so, Applicants respectfully request acceptance of the Issue Fee Transmittal originally submitted on July 10, 2009. If the error is determined not to be attributable to the PTO, then Applicants respectfully request that the Office of Petitions grant this Petition.

Accordingly, **Applicants hereby petition for revival of this application under 37 CFR 1.137(b)**, which was unintentionally abandoned when Applicants did not timely pay the requisite Issue Fee and related Publication Fee by July 10, 2009.

A grantable petition under 37 CFR §1.137(b) requires: (1) a reply to the outstanding Office action or notice; (2) the petition fee set forth in 37 CFR §1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of the grantable petition was unintentional; and (4) a terminal disclaimer with disclaimer fee pursuant to 37 CFR 1.137(d) (i.e., only required for utility applications filed before June 8, 1995). These requirements are met as follows.

*(1) Reply*

The reply to the Notice of Allowance of April 10, 2009 is the payment of the requisite Issue Fee and Publication Fee Response to Notice of Allowance. Accordingly, an Issue Fee Transmittal is being filed together with this Petition, which authorizes payment of both fees through our Deposit Account No. 04-1105, under Reference No. 82439(303989).

*(2) Petition fee*

Applicants hereby authorize payment from Deposit Account No. 04-1105 under Reference No. 82439(303989) of the large-entity fee under 37 CFR 1.17(m) of \$1620.00 for this Petition to revive.

*(3) Statement*

Applicants respectfully submit that the entire delay in filing the required reply (here, payment of the Issue and Publication Fees), from the due date for the required reply (July 10, 2009) until the filing of this grantable Petition was unintentional.

*(4) Terminal disclaimer with disclaimer fee*

Since this patent application was filed on or after June 8, 1995, no terminal disclaimer is required.

Dated: July 30, 2009

Respectfully submitted,

By: /Gabriel J. McCool/  
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